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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/495,036	01/31/2000	Ruibing Hao	29250-000920/US	4280

7590 06/02/2004  
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EXAMINER
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PHILPOTT, JUSTIN M

ART UNIT	PAPER NUMBER
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2665

23

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/495,036

Applicant(s)

HAO ET AL.

Examiner

Justin M Philpott

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 3-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 16, 2004 has been entered.

### ***Response to Arguments***

2. Applicant's arguments, see page 5, filed April 16, with respect to the rejection(s) of claim(s) 3-10 under 35 U.S.C. 103(a) as being unpatentable over Uyar have been fully considered and are persuasive in view of the amendments to claim 3. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of U.S. Patent No. 6,600,720 to Gvozdanovic.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, claims 9 and 10 recite the limitation “the first and the second end users” (claim 9, line 3) and “the first end user” and “the second end user” (claim 10, line 2-4). There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 3-10 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,600,720 to Gvozdanovic.

Regarding claim 3, Gvozdanovic teaches a method of generating test sequences for evaluating the interoperability of communication systems (e.g., customer premise and central office, see FIG. 1) connected through a first (e.g., 30) and second (e.g., 40) gateway with respect to a desired mode of operation between the systems, the method comprising: determining a number of operational states (e.g., see col. 12, line 10 – col. 15, line 17 regarding determining operational states for each of the Examples 1-5) that are required to implement the desired mode of operation (e.g., according to settings of one of Examples 1-5) of communication systems connected through a first (e.g., 30) and second (e.g., 40) gateway, wherein each operational state pertains to a first operation (e.g., establishing a connection rate, see col. 12, line – col. 13, line 47) of the first gateway (e.g., 30) and a corresponding second operation (e.g., policing function

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implementing GCRA, see col. 15, lines 18-65) of the second gateway (e.g., PVG 40); and testing each communication system (e.g., customer premise and central office) by causing the system to perform specified transitions between pairs of at least some of the operational states (e.g., see col. 21, line 60 – col. 22, line 12).

Regarding claim 4, Gvozdanovic teaches at least one of the communication systems may be in the form of an Internet protocol network (e.g., see col. 2, lines 43-47).

Regarding claim 5, Gvozdanovic teaches at least one of the communication systems is in the form of a switched telephone network (e.g., see PBX 10).

Regarding claim 6, Gvozdanovic teaches selecting the desired mode of communication as voice communication (e.g., see col. 5, lines 15-25).

Regarding claim 7, the method of Gvozdanovic discussed above regarding claim 3 inherently comprises a finite state machine having vertices corresponding to the operational states (OSx) and having edges between the vertices corresponding to the specified transitions (e.g., see col. 12, lines 10-60 and specifically lines 55-60 wherein operational states follow a transitioning pattern according to speed reduction).

Regarding claim 8, Gvozdanovic teaches the first and second communication systems coupled to corresponding gateways may comprise Internet protocol networks (e.g., see col. 2, lines 43-47).

Regarding claim 9, Gvozdanovic inherently teaches a telephone network is coupled between the first gateway (e.g., 30) and a first user (e.g., via connections to PBX 10, not shown) and between the second gateway (e.g., 40) and a second user (e.g., coupled to central office 40 via a switched telephone network, not shown).

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Regarding claim 10, Gvozdanovic teaches the testing step comprises only operations pertaining to both first and second gateway systems and respective users (e.g., operations pertaining to communications link between first and second gateways, see col. 1, line 56 – col. 2, line 55).

### *Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M Philpott whose telephone number is 703.305.7357. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D Vu can be reached on 703.308.6602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Justin M Philpott

  
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